

April 5, 2012

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VIA ECFS

James Arden Barnett, Jr., Chief
Public Safety & Homeland Security Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
joseph.barnett@fcc.gov

Re: Waiver Request

Dear Mr. Barnett:

This request is being filed on behalf of Cincinnati Bell Wireless LLC ("CBW"), Cricket Communications, Inc. ("Cricket"), Flat Wireless LLC d/b/a Clear Talk ("Clear Talk"), and nTelos Wireless ("nTelos"). Collectively, CBW, Cricket, Clear Talk and nTelos are referred to herein as "the Carriers".

For good cause shown, the Carriers request a brief extension of the April 7, 2012 deadline for the Carriers to implement the Commercial Mobile Alert System ("CMAS") for transmitting emergency alerts to their respective subscribers. In support of this waiver request, the following is respectfully shown:

The Carriers are all licensed by the Federal Communications Commission (the "Commission") to provide Commercial Mobile Radio Service ("CMRS"). Specifically, CBW is the wireless division of Cincinnati Bell Inc., one of the nation's most respected and longstanding providers of local exchange service as well as long distance wireless and broadband services in Ohio, Kentucky, and Indiana. Cricket is a leading provider of prepaid wireless services serving nearly 6,000,000 customers across the United States. Clear Talk provides wireless voice and data services in Texas, Arizona and New Mexico. nTelos is a leading provider of wireless communications services in select areas of Virginia, West Virginia, Maryland, Ohio, Kentucky, and North Carolina.

Each of the Carriers has opted into the voluntary CMAS and is looking forward to providing this important public safety service to its subscribers. After evaluating a number of options, each of the Carriers elected to work with TeleCommunication Systems ("TCS") to implement its CMAS solution. TCS is a world leading provider of highly reliable and secure mobile communication technology to both commercial and government users. Several of the Carriers had pre-existing relationships with TCS in connection with their provision of wireless E-911 services, and previously found TCS to be reliable and responsive. As a result, each Carrier opted to adopt the TCS Mobile Alerts Solution for the purpose of participating in the CMAS.

The Carriers all have been working with TCS for a considerable period to meet the April 7, 2012, implementation date, and substantial progress has been made. Connectivity between TCS and each of the Carriers has been established and tested. The Carriers either have CMAS-capable handsets available and in service with certain end users or on order for near term delivery. The Carriers also each have signed the requisite Memorandum of Agreement ("MOA") with the Federal Emergency Management Agency ("FEMA") Integrated Public Warning System ("IPAWS") Program Management Office. The only

remaining link in each Carrier's end-to-end system that needs to be completed is to establish a secure interface between the Federal Alert Aggregator/Gateway (the "Gateway") and TCS. Unfortunately, an unexpected delay has occurred. The standard Interconnection Security Agreement ("ISA") proposed by FEMA for CMAS implementation was crafted for direct connections by a participating carrier with the Gateway and not for a third party service provider such as TCS. As a consequence, implementation was delayed at a critical time in the schedule. Approximately 6 months were lost due to the absence of a signed ISA agreement between FEMA and TCS. The timetable of the interactions between FEMA and TCS, as provided to the Carriers by TCS, was as follows:

- 9/8/11 – TCS completes J-STD-102 testing certification with FEMA
- 10/7/11 – FEMA notification to TCS regarding the development of a Interconnection Security Agreement (ISA) document for hosted systems
- 1/6/12 – TCS receives the Hosted ISA
- 1/24/12 – TCS submits completed Hosted ISA to FEMA
- 1/25/12 – FEMA requests TCS revise certain parts of ISA
- 1/26/12 – Hosted ISA returned to FEMA
- 3/27/12 – Hosted ISA executed and returned to TCS

Two aspects of this timetable are noteworthy. First, TCS was diligent in responding promptly to each FEMA draft. Second, the final ISA was not executed and returned to TCS until March 27, 2012 following a more than 2 month delay at a critical point in time. TCS is moving promptly to establish connectivity and test its interface with the Gateway now that the ISA has been concluded. The Carriers are advised, however, that the best case for completing the end-to-end system is April 19, 2012, which is why this extension request is being filed. However, in order to avoid having to burden the Commission with multiple requests in the event of any further unavoidable delays, the Carriers are requesting an extension to May 15, 2012.¹ The Carriers and TCS will, nonetheless, continue to strive to bring the Carriers' alert systems online as soon as possible, and will undertake to alert the Commission in writing promptly upon achieving compliance.

The Commission has the authority to waive a compliance deadline for good cause shown. See 47 C.F.R. Section 1.3. ("[a]ny provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefore is shown.") Here, good cause is shown by the facts that: (1) the Carriers proceeded on a timely and diligent basis in a good faith effort to meet the April 7, 2012, compliance date; (2) the inability to meet the deadline is due to unexpected circumstances beyond their immediate control;² and, (3) only a brief extension is being requested, which serves as confirmation that the Carriers have been making a bona fide effort to comply. Under these circumstances, a waiver will not eviscerate the rule, but rather will serve the public interest.

¹ The carriers have selected May 15, 2012, because CMRS carriers not participating in the CMAS are obligated to meet the customer notification requirements by that date. See Public Notice, Public Safety and Homeland Security Bureau Announces Timetable for Commercial Mobile Service Providers Electing Not to Transmit Commercial Mobile Alert System (CMAS) Alerts to Notify Existing and Potential Customers, DA 12-419 released March, 16, 2012. Since the Carriers are not opting out of the CMAS and do not want to create customer confusion, they do not intend to notify customers of the brief extension of the implementation date that is requested herein.

² Since FEMA played an active role in establishing the April 7, 2012, compliance date, neither the Carriers nor TCS would have expected the process of negotiating the revised ISA to take so long on FEMA's part.

Based upon the foregoing, the Carriers respectfully request a brief extension of time to May 15, 2012, to comply with the implementation deadline established by Section 10.11 of the Commission's rules and the Public Notice released December 7, 2009.³

Kindly refer any questions in connection with this matter to the undersigned.

Sincerely,

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³ See "FCC's Public Safety and Homeland Security Bureau Sets Timetable in Motion for Commercial Mobile Alert Service Providers," DA 09-2556, released Dec. 7, 2009.